

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

TX 2005-050319

12/12/2007

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT  
S. Brown  
Deputy

FOUNDERS HEALTHCARE L L C

DONALD P ROELKE

v.

PIMA COUNTY

GERMAN YUSUFOV

**UNDER ADVISEMENT RULING**

**(Defendant's Motion For Summary Judgment)**

Plaintiff owns certain medical equipment, which it leases to individuals for home use. The Pima County Assessor's Office treats Plaintiff's property as falling under the "medical equipment" classification, which provides for a ten-year life. Plaintiff claims that it should instead fall under the "rental equipment" category, with a five-year life.

Estoppel

The estoppel issue is complicated by the fact that both Taxpayer Notices of Claim were filed on the same day. The life table notice has described as the second by both parties, though there is no indication on the face of the documents which was filed first. However, the Court treats them as a single appeal. The settlement of the cost issue is thus regarded as a partial settlement of that single appeal. Plaintiff is therefore not estopped from raising it in this appeal.

Life tables

As Plaintiff concedes, the subject equipment could be classified as either "Medical" or "Rental Equipment." The issue, as framed by Plaintiff, is whether it is *more* medical or *more* rental equipment, Plaintiff arguing that the weight of rationality falls on the latter interpretation.

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This determination falls, in the first instance, on the officers charged with such administrative decisions, the fifteen county assessors. Their decision is entitled to deferential review. *Griffith Energy, L.L.C. v. Arizona Dept. of Revenue*, 210 Ariz. 132, 135 ¶ 12 (App. 2005). The Court is not empowered to substitute its judgment for that of the administrative agency. *Id.* at 136 ¶ 16 (quoting *DeCarlo v. MCSA, Inc.*, 163 Ariz. 23, 25-26 (App. 1988)). There appears to be no dispute that the Pima County Assessor consistently categorizes such equipment as medical rather than rental. To overturn this decision, Plaintiff must show that the Assessor acted dishonestly or without due consideration, or that his decision was made without substantial evidence. *Id.* at 135-36 ¶ 16. It is not enough merely to show that some experts, such as Mr. Neill, would have come to a contrary conclusion. That five counties would value Plaintiff's equipment as rental rather than medical, apart from leaving unanswered the question of how the nine remaining counties would value it, does not answer the objection. The Pima County Assessor is elected to make these decisions in Pima County. As long as he or she makes them in accordance with state law and DOR regulations, the Court must defer to them.

Therefore, IT IS ORDERED granting Defendant's Motion For Summary Judgment.